

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON DIVISION

Alonzo V. Keller,

Plaintiff,

VS.

Willie Bamberg, Director,

Defendant.

C.A. No. 8:05-3468-TLW-BHH

## ORDER

The Plaintiff, proceeding *pro se*, brings this action for damages pursuant to 42 U.S.C. § 1983. At the time he filed this action, Plaintiff was incarcerated at Orangeburg-Calhoun Regional Detention Center, awaiting trial on drug charges.

On December 28, 2005, United States Magistrate Judge Bruce Hendricks, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.), filed a Report and Recommendation (“the Report”). In her Report, Magistrate Judge Hendricks recommends that the Plaintiff’s complaint be dismissed without prejudice and without issuance and service of process. On January 4, 2006, Plaintiff filed objections to the Magistrate’s report. However, Plaintiff has not made a motion to amend his complaint to add allegations that indicate he has sued the proper defendant, or taken steps to add the proper defendants to his complaint. Should the Plaintiff wish to proceed with this action, he should draft a proper complaint and refile his action.

This Court is charged with reviewing the Magistrate’s report and the Plaintiff’s objections thereto. In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of this standard, the Court has carefully reviewed, de novo, the Report and the objections thereto and has concluded that the Report accurately summarizes this case and the applicable law. For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 5); Plaintiff's objections are **OVERRULED** (Doc. # 6); and Plaintiff's complaint is dismissed without prejudice for failure to state a claim upon which relief may be granted.

**IT IS SO ORDERED.**

S/ Terry L. Wooten  


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**TERRY L. WOOTEN**  
**UNITED STATES DISTRICT JUDGE**

February 25, 2008

Florence, South Carolina